



Sullivan & Worcester LLP
1633 Broadway
New York, NY 10019

212 660 3000
sullivanlaw.com

December 28, 2020

VIA ECF

The Hon. Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *The Export-Import Bank of the Republic of China v. Republic of the Congo*,
Case No. 16-cv-4480 (JMF)

Dear Judge Furman:

We represent the Export Import Bank of the Republic of China (“Ex-Im Bank”), judgment creditor in this matter.

On October 29, 2020, this Court issued an opinion and order granting Ex-Im Bank’s motion for sanctions (ECF No. 64; the “Order”). Among other things, this Court required Ex-Im Bank to promptly serve the Democratic Republic of the Congo (the “DRC”) with a copy of the Order using each of the methods detailed in Ex-Im Bank’s Memorandum of Law at page 2 note 1.

We promptly served the DRC as directed, and filed proof of service on October 30, 2020. ECF No. 65.

The Court also directed Ex-Im Bank to file a status letter with the Court in two months stating what sanctions had accrued, providing information on any contact or communications with the DRC regarding the dispute, and stating whether Ex-Im Bank believed that the sanctions ordered should be revisited or modified. This is that status letter.

First, with regard to the sanctions that have accrued: the Court granted the DRC a three-week stay before sanctions would commence to give the DRC the opportunity to cure its ongoing deficiencies. That three-week period passed on November 19, 2020 without any remedial action by the DRC.

For the four weeks following November 19, 2020 (that is, through December 17, 2020), the sanctions consisted of \$1,000 per day, totaling \$28,000 for that period of time. Per the Order, the sanctions have now doubled to \$2,000 a day, adding \$22,000 to date to the \$28,000, for a total of \$50,000 as of today.

Looking ahead, and assuming no remedial action by the DRC, then beginning January 14, 2021, sanctions will accrue at a rate of \$4,000 a day, for the next four-week period.

The Hon. Jesse M. Furman
December 28, 2020
Page 2

Second, as to communications with the DRC: on October 29, 2020, we wrote to Benita Kindongo, Esq., counsel for the DRC, attaching the Order. Ms. Kindongo replied promptly on October 30, 2020, stating that she would communicate the Order immediately to the government, and stating that she hoped “my client and yours will find a way to find a proper solution in both interests.” Also, on November 4, 2020, we transmitted a French translation of the Order to Ms. Kindongo. On December 16, 2020, we wrote to Ms. Kindongo, reminding her that we were required to submit a status letter to this Court no later than 60 days from the date of the Order and asking if she continued to represent the DRC in connection with the matter, and whether she thought there was anything fruitful that could be accomplished at present to try to resolve the matter. On December 19, 2020, we heard back from Ms. Kindongo, stating that she still represented the DRC on this matter, but that she had no “clear position” from her client yet and would revert when she did. That was the most recent communication we have received from Ms. Kindongo.

Third, Ex-Im Bank seeks no change at the present time to the terms of the Order.

As always, we appreciate the Court’s attention to this matter, and stand ready to answer any questions the Court may have.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'PS' followed by a long, sweeping horizontal line.

Paul E. Summit
Direct line: 617-338-2488
psummit@sullivanlaw.com

cc: Benita Kindongo, Esq.